

JOSEPH H. HUNT
Assistant Attorney General
MARCIA BERMAN
Assistant Director, Federal Programs Branch
KATHRYN L. WYER (Utah Bar No. 9846)
U.S. Department of Justice, Civil Division
1100 L Street, N.W., Room 12014
Tel. (202) 616-8475
kathryn.wyer@usdoj.gov
Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

AMERICAN FEDERATION OF
TEACHERS, *et al.*,

Case No.: 5:20-cv-455-EJD

Plaintiffs,

**DEFENDANTS' RESPONSE TO
CALIFORNIA'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED**

ELISABETH DEVOS, in her official capacity as Secretary of Education, *et al.*,

Defendants.

Pursuant to Civil Local Rule 3-12(e), Defendants submit this response to the State of California’s third-party Administrative Motion To Consider Whether Cases Should Be Related. The State suggests that its separately-filed case, *California v. DeVos et al.*, No. 5:20-cv-1889-NC, is “related” to the above-captioned action based on the definition of “related cases” in Civil Local Rule 3-12(a). That Rule states that an action is related to another action if “(1) The actions concern substantially the same parties, property, transaction or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are

1 conducted before different Judges.” Civil L.R. 3-12(a).

2 Defendants acknowledge that the State’s case and the above-captioned action both raise
3 challenges under the Administrative Procedure Act, 5 U.S.C. §§ 701-706, to the same Final Rule
4 promulgated by the U.S. Department of Education in 2019, *see* 84 Fed. Reg. 31, 392 (July 1, 2019).
5 Defendants note that they anticipate moving to dismiss each of these actions in separate motions, and
6 that the arguments in support of dismissal will likely raise different issues in each case. However,
7 should the cases proceed beyond the pleading stage, there may be a risk of duplication of labor or
8 conflicting results if the cases are conducted before different Judges.

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10 Dated: April 1, 2020

Respectfully submitted,

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12 JOSEPH H. HUNT
13 Assistant Attorney General
14 MARCIA BERMAN
15 Assistant Director, Federal Programs Branch

16
17 /s/ Kathryn L. Wyer
18 KATHRYN L. WYER (Utah Bar No. 9846)
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kathryn.wyer@usdoj.gov
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Atorneys for Defendants